

IN THE COURT OF APPEALS OF IOWA

No. 3-241 / 12-2085
Filed April 10, 2013

**IN THE INTEREST OF Z.F.,
Minor Child,**

**L.M.F., Mother,
Appellant.**

Appeal from the Iowa District Court for Polk County, Rachael E. Seymour,
District Associate Judge.

A mother appeals from the order terminating her parental rights.

AFFIRMED.

Meegan Langmaid-Keller, Altoona, for appellant mother.

Thomas J. Miller, Attorney General, Kathrine S. Miller-Todd, Assistant
Attorney General, John P. Sarcone, County Attorney, and Christina Gonzalez,
Assistant County Attorney, for appellee State.

Erin E. Mayfield of the Youth Law Center, Des Moines, for minor child.

Considered by Vaitheswaran, P.J., Tabor, J., and Mahan, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2013).

MAHAN, S.J.**I. Background Facts & Proceedings.**

Lacey and Arthur are the parents of a child who was born in 2011.¹ Lacey has a long history of mental health problems. She threatened to commit suicide. She also placed a blanket over the child's head because the child was crying and stated she could not take it anymore. On August 25, 2011, Lacey consented to having the child removed from her care and placed with a maternal great-grandmother.

The child was adjudicated to be in need of assistance (CINA) under Iowa Code sections 232.2(6)(b), (c)(2), and (n) (2011). The maternal great-grandmother did not want to be considered as a long-term placement, and in October 2011, the child was placed in foster care. Lacey struggled to consistently comply with services. She continued to demonstrate an explosive temper.

In October 2011, the child was diagnosed with a serious health condition. Lacey denied the diagnosis and became very disruptive in the doctor's office. After several visits where Lacey had emotional outbursts, in January 2012 the child's physician told her she could not longer attend doctor's appointments at the clinic. The physician wrote this statement in February 2012:

Because of our past interactions with Lacey during office visits and her attitude toward personnel in the [] clinic, it raises serious doubt in my mind about Lacey's volatility and mental stability. I question whether Lacey will be able to provide the proper and necessary daily care as well as medical care and stability this baby needs to thrive.

¹ The child's father was not involved in the child's life, was not involved during the juvenile court proceedings, and has not appealed the termination of his parental rights.

On April 28, 2012, the guardian ad litem filed a petition seeking to terminate the parents' rights. After a hearing, the juvenile court terminated Lacey's rights pursuant to sections 232.116(1)(d) and (h). The court found the mother had unresolved mental health issues and had not engaged in individual therapy. The court noted that during the hearing Lacey became overly agitated and emotional. The court also found she had numerous issues to still address in addition to her mental health problems. The court concluded termination of Lacey's parental rights was in the child's best interests. Lacey appeals the decision of the juvenile court.

II. Standard of Review.

The scope of review in termination cases is de novo. *In re D.W.*, 791 N.W.2d 703, 706 (Iowa 2010). Clear and convincing evidence is needed to establish the grounds for termination. *In re J.E.*, 723 N.W.2d 793, 798 (Iowa 2006). Where there is clear and convincing evidence, there is no serious or substantial doubt about the correctness of the conclusion drawn from the evidence. *In re D.D.*, 653 N.W.2d 359, 361 (Iowa 2002). "The paramount concern in termination proceedings is the best interest of the child." *In re D.S.*, 806 N.W.2d 458, 465 (Iowa Ct. App. 2011).

III. Sufficiency of the Evidence.

Lacey claims the juvenile court improperly terminated her parental rights pursuant to section 232.116(1)(h). We first note Lacey does not challenge the termination of her parental rights pursuant to section 232.116(1)(d). "When the juvenile court terminates parental rights on more than one statutory ground, we

need only find grounds to terminate under one of the sections cited by the juvenile court to affirm.” *In re S.R.*, 600 N.W.2d 63, 64 (Iowa Ct. App. 1999). We may therefore conclude the juvenile court properly terminated Lacey’s parental rights under section 232.116(1)(d).

If we were to address the termination of Lacey’s parental rights under section 232.116(1)(h), we would find there is clear and convincing evidence in the record to support termination on this ground as well. On appeal, Lacey does not claim the child could have been returned to her care at the time of the termination hearing, but asks for additional time to resume care of her child. The evidence showed Lacey made very limited, if any, progress during the time the juvenile court was involved. We agree with the juvenile court’s conclusion that given Lacey’s many problems, “there is no hope these matters can be resolved in a matter of months.”

IV. Reasonable Efforts.

Lacey asserts the State did not engage in reasonable efforts to reunite her with her child. She states the child should have been permitted to remain with the great-grandmother for a more extended period of time in order to allow maximum contact in services for both herself and the child. She claims the placement of the child in foster care was premature.

The child was placed with a maternal great-grandmother, with Lacey’s consent, on August 25, 2011. The CINA adjudication order, on October 4, 2011, continued that placement. The State filed a motion seeking to modify the child’s placement. The motion noted the maternal great-grandmother was not a long-term option for placement, and a pre-adoptive foster home had been identified.

The juvenile court approved the placement of the child in foster care on October 24, 2011. The disposition order, dated December 7, 2011, continued the child in foster care. The disposition order noted it was an uncontested proceeding. The court also found, “no additional services were requested by the parties.”

The Department of Human Services has an obligation to make reasonable efforts towards reunification. *In re A.A.G.*, 708 N.W.2d 85, 91 (Iowa Ct. App. 2005). A parent, however, has a responsibility to challenge or object to services prior to the termination hearing. *In re M.B.*, 595 N.W.2d 815, 818 (Iowa Ct. App. 1999). “We have repeatedly emphasized the importance for a parent to object to services early in the process so appropriate changes can be made.” *In re C.B.*, 611 N.W.2d 489, 493-94 (Iowa 2000).

The State claims Lacey has not preserved error on the issue of reasonable efforts. Lacey claims she preserved error on this issue in the permanency hearing held on March 9 and March 23, 2012, as well as raising it at the termination hearing. As noted above, the issue of reasonable efforts must be raised *before* the termination hearing. See *M.B.*, 595 N.W.2d at 818. Thus, we focus on whether the issue was raised at the permanency hearing.

At the permanency hearing held on March 9, 2012, the court asked, “Any other services needed by Mom before the next hearing,” and the response by the mother’s attorney was, “No.” The issue of reasonable efforts was not raised at the continued permanency hearing on March 23, 2012. We conclude the record does not show Lacey challenged the placement of the child in foster care prior to the termination hearing. We determine the issue of reasonable efforts has not

been preserved for our review. See *In re H.L.B.R.*, 567 N.W.2d 675, 679 (Iowa Ct. App. 1997).

In the alternative, even if the issue of reasonable efforts had been preserved for our review, we conclude the evidence shows the services provided to the mother were reasonable. We additionally note the maternal great-grandmother testified she informed the department she was not a long-term option for the child. She stated she was sixty-two years old, her husband was seventy-two years old, and he did not feel they could keep the child for very long.

V. Best Interests.

Lacey contends termination of her parental rights is not in the best interests of the child. She states she is willing to engage in mental health treatment and therapy. She also states she had obtained transportation and housing and was taking steps so she would be able to care for the child.

In considering the best interests of children, we “give primary consideration to the child’s safety, to the best placement for furthering the long-term nurturing and growth of the child, and to the physical, mental, and emotional condition and needs of the child.” Iowa Code § 232.116(2); *In re P.L.*, 778 N.W.2d 33, 40 (Iowa 2010). Generally, it is not in a child’s best interests to make the child wait for permanency. See *In re A.B.*, 815 N.W.2d 764, 777 (Iowa 2012) (noting children “simply cannot wait for responsible parenting”).

After considering the record in this case, we conclude termination of the mother’s parental rights is in the best interests of the child. Lacey has not adequately addressed her mental health problems, and the child could not be safely placed in her care. The evidence shows Lacey does not have the maturity

or stability to meet the child's needs. We agree with the juvenile court's conclusion that the child should not have to wait any longer for a permanent home.

We affirm the decision of the juvenile court.

AFFIRMED.